



MONTGOMERY COUNTY DEPARTMENT OF POLICE

CONSENT SEARCHES

DIRECTIVE NO:

FC 710

EFFECTIVE DATE:

February 10, 2023

REPLACES:

FC 710, dated January 27, 2023

ACCREDITATION STANDARDS:

CALEA Standards: 1.2.4, 1.2.5, and 1.2.8

PROPONENT UNIT:

PSB and ISB Administrations

AUTHORITY:


Marcus G. Jones, Chief of Police

If a provision of a regulation, departmental directive, rule, or procedure conflicts with a provision of the contract, the contract prevails except where the contract provision conflicts with State law or the Police Collective Bargaining Law. (FOP Contract, Article 61).

I. POLICY

The Montgomery County Department of Police (MCPD) shall conduct all searches of persons and property in compliance with existing law and departmental policy. At the discretion of the police officer, consent to search may be solicited.

II. PROCEDURES

- A. When a police officer obtains consent to conduct a warrantless search from a person, the person may be giving up a constitutionally protected right. The police officer must show that such consent was given voluntarily and not due to duress or intimidation by the police.
- B. The police officer does not have to show probable cause for a search or seizure if the search or seizure was done with consent. However, because of the intrusive nature of a consent search, requesting police officers should be able to articulate their rationale for requesting the search.
- C. When conducting a search based solely on consent, the police officer(s) shall advise the person(s) involved that they have the right to refuse consent for the search.

- D. When requesting to conduct a search based solely on consent, police officers shall capture the advisement of this right and the person(s) acknowledgment and verbal approval/disapproval on a department-authorized recording device (e.g., BWCS, MVS, Axon Capture).
- E. ***The MCP Form 120 (Consent to Search) will be completed for every consent search and included in the case file.***
- a. The police officer's incident or supplement report ***shall*** clearly articulate the circumstances under which consent to search was requested.
 - b. ***Police officers may obtain written consent (preferred) or verbal consent.***
 - c. ***For written consent, when the MCP 120 is unavailable, the officer may handwrite a consent to search on plain paper. The note will also be stored in the case file.***
 - d. ***For verbal-only consent, the MCP 120 does not need to be immediately completed but will be completed before the end of the shift.***
 - i. ***The officer will complete the subject's name, write the Incident # and clearance code, select whether BWC is available, and check the Verbal Consent ONLY box.***
 - ii. ***All demographic data will be completed regardless of consent type.***
- F. The police officer obtaining consent to search will forward a copy of the completed MCP 120 (Consent to Search) to the Policy and Planning Division via the listed email address MCP.PolicyandPlanning@montgomerycountymd.gov before the end of their shift.
- G. The Policy and Planning Division will maintain copies of the completed MCP 120 (Consent to Search) for data collection and analysis consistent with county record retention policies.
- H. The person giving the consent to search can place limitations or conditions on the consent search or withdraw consent at any time.
- I. Any items seized must be properly recorded as required by FC 721 "Evidence/Recovered Property."